

SPEECH

218

OF

MR. MASON, OF VIRGINIA,

ON

THE BILL REPORTED BY MR. CLAY FROM THE COMMITTEE
OF THIRTEEN TO ADMIT CALIFORNIA AS A STATE
INTO THE UNION, TO ESTABLISH TERRITORIAL
GOVERNMENTS FOR UTAH AND NEW MEXICO,
AND MAKING PROPOSALS TO TEXAS FOR
THE ESTABLISHMENT OF HER WEST-
ERN AND NORTHERN BOUNDARIES.

DELIVERED

IN THE SENATE OF THE UNITED STATES, MAY 27, 1850.

WASHINGTON:

PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.

1850

Digitized by the Internet Archive
in 2017 with funding from

This project is made possible by a grant from the Institute of Museum and Library Services as administered by the Pennsylvania Department of Education through the Office of Commonwealth Libraries

ADMISSION OF CALIFORNIA.

The Senate having under consideration the special order, being the bill to admit California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries,

Mr. MASON, said :

It is my desire, in the remarks which I intend to submit to the Senate on the subject of this bill, to review, as briefly as I may, all the measures combined in it, or which are recommended by the committee which brought it in, in order that I may point out those parts upon which we may agree with the committee, and those upon which, as they stand, I fear we shall not agree. In doing this I would first advert to two measures which, although they do not form a part of the bill under consideration, have been connected with it, and are recommended by the committee in their report as a part of the general scheme of adjustment which that report recommends. And I wish to do so because, as it seems to me, one of the provisions in the bill relating to the reclamation of fugitive slaves, has been a subject of some misconception on the part of gentlemen with whom I usually act—indeed of several Senators from the southern States. The amendment proposed by the committee to which I refer is that which gives authority to the claimant of a fugitive slave, when he goes into the State in which such fugitive is found, to take with him record evidence sufficient to entitle him to reclaim the fugitive without further testimony, and without oral testimony. It has been thought by some gentlemen, who probably have not fully considered it, that this provision would be found objectionable on the part of the claimant. When this measure was proposed in the committee, it seemed to me—and yet I entertain the opinion—that it would become a valuable advantage to the claimants of slaves who pursue them into the free States. It will be found, if gentlemen will look at it, that it is not made the exclusive evidence on which a slave shall be recovered. The claimant is not required to arm himself with this record, but he may do so or not at his discretion. Yet I am strongly inclined to think, if ever it is brought into practice, that there will be very many occasions on which claimants will be glad to have recourse to this record evidence. But, however this may be, the provision is cumulative only, and not exclusive; and the claimant may take such record, or dispense with it, and rely upon the oral testimony of witnesses, as he deems best. I think, therefore, that the proposition, as recom-

mended by the committee, will be found a valuable suggestion, and in practice will go far to facilitate, and diminish the expenses attendant on the reclamation of fugitive slaves

There is another provision in the same bill, which has been recommended by the committee, and to which I am sorry to say I do not give my assent; it is that which provides that, when a fugitive shall declare that he is a free man, the claimant shall enter into bond to secure to the fugitive a trial by jury in the State from which he has fled. When this was first proposed in the committee, it seemed to me that it would be innocuous, or, at any rate, whether the provision amounted to much or little, it was one which might very safely be yielded to. Although I gave no direct sanction to it when proposed in the committee, I acquiesced so far as to agree to it as a recommendation, reserving to myself the right of offering such considerations on the subject to the Senate as might afterwards suggest themselves. I am disposed to think now that I cannot give my assent to it as a member of the Senate. The first and greatest objection I have is, that, practically, I think, it will be found to operate injuriously to the master who reclaims his slave, because pending the time within which the slave is entitled to trial, the master would not be able to dispose of him, and we all know that in nineteen cases out of twenty, where a fugitive slave is recovered, it is advisable to dispose of him immediately: first, on account of the example, and, secondly, because by absconding he has forfeited the confidence of his owner—and it might, therefore, prove a serious mischief to retain him in that equivocal position under the bond of his master. But, in any view, such provision is wholly superfluous, because in every slaveholding State ample provision is made by law to secure the rights of any slave who asserts a right to freedom. They are allowed to sue in *forma pauperis*; security is required of the master to insure his safety, pending the action, and full provision is made for sufficient liberty to prepare his case for trial, which is always by jury; in addition to which the courts are required to furnish him with proper counsel to conduct the case. There is another reason which presents itself very forcibly to my mind. It unnecessarily trammels and embarrasses the owner of this species of property, and in a manner inconsistent with the full right of reclamation, secured to him by the Constitution. By the Constitution, the fugitive slave is to be "delivered up on claim of the party," and it is in derogation of this right to deliver him

only on condition. I think, therefore, when we come to consider that bill, it will be found on all sides that it will be best to avoid that provision.

Another bill, that which proposes to abolish what is called the "slave trade" in the District of Columbia, is one of those measures from which I dissented in the committee, and from which I shall continue to dissent. If it is intended as a part of the general compromise, which it is said the bill under discussion presents, I fear that so far as Senators from the South are concerned—to a large majority of them at least—it will constitute an insuperable objection.

Sir, upon this subject, even were my own opinions untrammelled, I never could and never would give my assent to the passage of such a law at this time by Congress. Yet I consider that all discretion on this subject is taken from me. By a resolution of the General Assembly of Virginia, passed at the last session, the abolition of the slave trade in the District of Columbia by a law of Congress is made one of those events, upon the occurring of which the Governor of Virginia is required to convene the Legislature forthwith, that the State may be placed in proper position to meet it.

Mr. FOOTE. Will the Senator from Virginia allow me to interrupt him for a moment?

Mr. MASON. If for any personal or other explanation, I have no objection to yield the floor, but I would rather pursue my remarks uninterrupted. However, the Senator from Mississippi can have the floor.

Mr. FOOTE. No; I decline. I will not interrupt the Senator.

Mr. MASON. I am perfectly willing to be corrected in any misapprehension, but gentlemen must be aware that to be interrupted when closely occupied by the subject under discussion, deranges the course of thought, and necessarily impairs and hinders the operation of the mind. Unless, therefore, it be for same purpose of personal explanation, it seems to me better that it should not be resorted to. It was with that view that, on yielding the floor, I added that I did so in the hope that the Senator from Mississippi (and I intended the remark to apply to Senators generally) would allow me to proceed without interruption. Certainly, if I say anything of a personal character, or which requires explanation, I will cheerfully yield to an interruption.

Now, sir, as to the fact. I think I should hardly have announced to the Senate resolutions from the Legislature of Virginia, on any subject involved in our action, or on which I was to act, without knowing what I was about. Sir, I have the resolutions here; and I intend presently to ask the Senate to allow me to have them read. They were passed on the 20th of January, 1849, and those to which I had particular reference are in these words:

"Resolved, That we regard the passage of a law by the Congress of the United States abolishing slavery or the slave trade in the District of Columbia, as a direct attack upon the institutions of the southern States, to be resisted at every hazard.

"Resolved, That in the event of the passage by Congress of the Wilmot proviso, or any law abolishing slavery or the slave trade in the District of Columbia, the Governor of this Commonwealth is requested immediately to convene the Legislature of this State, (if it should have adjourned,) to consider the mode and measure of redress."

Mr. CLAY. What is the date of those resolutions?

Mr. MASON. The date is January, 1849.

Mr. CLAY. For January, 1850, I presume.

Mr. MASON. No, they were passed in '49 and are still in force, for they never were revoked or rescinded. However, Mr. President, the bill which proposes to abolish the slave trade, as it is called, in the District of Columbia, forms a part of that which is now under consideration. I have adverted to it only because it is in the recommendation of the committee, and, as I understand it, is suggested as part of the general scheme of adjustment. I pass, however, from the topics to the bill more immediately under consideration, and which is generally known as the "compromise bill." Sir, it was my misfortune, I announced on a former day on this floor, to differ with the majority of the committee in the opinion that the measures proposed by the committee could be received by the southern States as a basis upon which the unhappy controversy that has arisen could be adjusted. I feel myself, however, entitled to speak only for the State which I in part represent here, and, as to her, I am speaking under the instructions contained in the resolutions, a part of which I have read just now to the Senate—instructions which forbid me to do any act or to give a vote which will admit the right of the Congress of the United States in any manner, either directly or indirectly, to exclude the people of the southern States from having free access to any of the territories belonging to these States, and taking away from them any of their property. These resolutions were reaffirmed by the General Assembly of 1849-50, modified only as regards the prohibition of slavery in the territories, by the expression of a willingness yet to conform to the spirit and terms of the Missouri compromise.

Mr. President, the prohibition of slavery in the territories formed the great point of division between the parties in the country; it was that upon which the southern States rallied during the winter, and presented, according to my recollection, an undivided front against the Wilmot proviso, as it is called—or the alleged right in Congress to prohibit slavery in any of the territories which we have acquired from Mexico.

Now, sir, I am fully aware that in the effort and I will say the great efforts, that are made to bring the minds of the American people to a concurrence in the measures proposed by this Congress, those who oppose it, either Senators or Representatives, are denounced through the press as "traitors," the meaning being that all who do not admit that this bill as reported forms the true basis upon which the controversy should be adjusted are "traitors," or against any "adjustment." Sir, there was a time, and that too within little more than ten years, when nearly the whole delegation of the South in the other wing of the Capitol abandoned their seats and left the Hall because they would not remain present as members of a House that tolerated discussion even, on the institution of slavery. Such was the state of feeling then beneath this scheme of the interdiction of slavery in the territories had been devised—a protest in advance against the discussion of that institution for any purpose whatever in the Congress of the United States. And where are we now? Present, after day in this Chamber, patient listeners to debates upon an institution with which the destiny of the southern States are inseparably connected.

nd from quarters utterly unconnected with it, except in aggression and hostility. Mr. President, I declare in advance here that I shall be more gratified than I could be at any other occurrence in life, if a measure should be adopted by this Congress, coming from any quarter, which will really adjust the controversy now subsisting between the North and the South. I will lend my aid most cheerfully to any such measure. I am prepared to make concessions—concessions too, that, so far as I am informed, have not yet been found coming with a free will from the South. I am prepared to state now what these concessions will be, but I am not prepared, and God forbid that I ever should be, to yield one inch to the demands of a right by law to prohibit our people from going into any territory belonging to the Government, and taking with them all or any part of their property, unless upon terms similar to those adopted in 1820, on the occasion of the admission of the State of Missouri. In order to ascertain the true character of the compromise proposed by this bill, let us first understand what is the point of division between the parties and the ground occupied by the South. The right as asserted by the southern States to occupy the territories as a common property, and for their people going there to take their property with them, is derived under the Constitution which provides a common government for the States. It is the right of the people in all the States to go into any territory, as the common property of all the States, and to take with them any or all of their property, and to reside there and to enjoy it, under the protection of the Constitution and the laws of the United States.

If this be true, and I apprehend there are none to question it, then it follows, that if there be any hindrance to this right existing in the territory, whether it has its origin in the laws or customs of such territory before it became the property of the United States, or whether it has been created since by any unauthorized act of the first occupants of such territory, it is the *duty* of the United States to once to interpose to remove such hindrance.

This is our right, clear and unequivocal, and one can say that we refuse terms of compromise, unless we refuse any modification or abatement of it as thus strictly defined. As a right derived under the fundamental laws of the Government, we should be fully justified in refusing any terms which would qualify or impair it; and yet, sir, the South already committed to a more conciliatory course, and by which I have little doubt she is yet prepared to abide.

First, by the terms of the act which passed the Senate two years since, under the sanction of southern votes, usually called the "Clayton Bill," was agreed to dispense with any act of Federal legislation opening the way in the territories to the people with their slaves, trusting to the Constitution for the protection of our property when taken to the territories, and merely providing proper means of redress through the judicial tribunals. This was one mode of adjustment sanctioned by southern votes, and founded in a large concession of our existing rights.

But there is another, far better understood, and which has the sanction of an acquiescence of thirty years. Falling back on the basis of compromise adopted on the admission of Missouri, let us take the parallel of 36° 30' north latitude as the line of

partition in the new territories, thus agreeing to divide and enjoy separately a common property, what our differing institutions would seem to forbid that we should enjoy in common.

Either form of adjustment, I have little doubt, would be found acceptable to the South. The first would simply organize governments for the territories in the usual form, and leave the rights of the citizens of the different States in those territories to be determined by the courts of the country, under the Constitution and the laws. But this would require that so much of the territory of California as has recently been erected into a State government, should be remanded to a territorial condition, and so retained until reasonable time was allowed to citizens of the southern States to remove there with their property, if they chose to do so.

The second is far the more practicable and convenient, and would allow the admission of a new State at once for California, after proper modifications of the constitution which has been adopted; and it has the merit of precedent, adopted in 1820, on the occasion of the admission of the State of Missouri, and since fully acquiesced in. If any adjustment can be made, of the character of a compromise, this has certainly the strongest claim. It divides, as I have said, into a separate property, that which we cannot enjoy as a common property, and apports to the North and South, respectively, territory in those latitudes most likely to be valuable to their differing habits and labor.

But let it not be supposed that I am at all the eulogist of the original "Missouri compromise." It was an evil day for the South, I have always thought, when it was adopted, and has been a fruitful source of discord since. It has been acquiesced in; nothing more. This acquiescence has made it familiar to our people, and I am satisfied their earnest desire to preserve the public peace, and with it the union of the States, would lead them to acquiesce in it again.

Having premised thus much, Mr. President, on the true position held by the South under the guarantees of constitutional right, and having thus indicated the extent to which we are willing to go in concession, for the sake of the public peace, I trust that those Senators from southern States who are arrayed in opposition to this bill will no longer be denounced as "ultras." And yet I am free to declare, if the most decided purpose never to sanction, by word or vote, so much of the bill as admits California with the boundaries adopted, and as dismembers Texas from the parallel of 32°, be an ultra position for the South, I plant myself there firmly and irrevocably, happen what may. We are sincerely desirous of adjusting this unhappy controversy on terms that may harmonize opinion, but no law which excludes the institution of slavery in any territory below the line adopted in 1820 will ever be tolerated, or, as I trust and believe, be endured.

Now, Mr. President, to the bill itself. What are its terms? It proposes, first, that the southern States shall submit to the exclusion of slavery by law in California down to the 32d parallel of north latitude, being 4½ degrees below the Missouri compromise line, and embracing the whole front on the Pacific ocean; because it provides for the admission of California with the boundaries she has prescribed, which come down to the 32d parallel

of north latitude. It proposes to the people of the southern States that they shall acquiesce in their exclusion from the territory now belonging to the people of all the States within the limits of the State of California, as low as the 32d degree of north latitude, bringing it down, as I have said, 4½ degrees below the Missouri compromise line. That is the first proposition.

And what is the second? The second is, that the Government of the United States shall procure from Texas, by a liberal grant of money, a cession of all the territory claimed by her north and west of a line run from the 32d to the 34th parallel of north latitude, comprehending about 125,000 square miles, and sufficient for the erection of two medium-sized States; the effect of which would be to release so much of the territory of Texas from the institution of slavery, and to subject it to the sole jurisdiction of the Federal Government. These are the two propositions presented to the southern States. And what is offered as an equivalent? The sole equivalent is, that the North will organize territorial governments for the residue of California, usually called "Utah," or "Deseret," and for what remains of New Mexico, without introducing the Wilmot proviso.

Now, sir, to these propositions, as made in the bill, I never can assent. I cannot assent, because they bring down yet lower, and to the extent of 4½ degrees, the limits from which we are to be excluded with our slaves. And it does more; it takes from one of the States of this Union a large territory now subject to the institution of slavery, and converts it into property of the United States, to be governed and controlled in its institutions by a majority from the non-slaveholding States.

Sir, the forbearance to enact the Wilmot proviso is not only no equivalent for such concessions, but there is no equivalent that can be given—at least none that I can conceive as being within the capacity of Congress to offer.

My first objection, then, Mr. President, to the bill reported by the committee for the adjustment of this question is, that it brings us down below the Missouri compromise line in Texas; and the second is, that it excludes the South from admission with their property into so much of the territory of California as is embraced within the limits of the new State below the same line. Sir, it violates the compact with Texas under which that State was brought into the Union. By the terms of annexation, the Missouri compromise line was to be sacredly regarded, in the formation of new States out of the territory of Texas. But the bill, in dismembering Texas, adopts a new line, reaching four and a half degrees below the compromise line, and releases all the territory lying north and west of it from the obligations of that compact.

So, in reference to California, it trenches again on the spirit of the compromise of 1820, by excluding slavery on the Pacific border, as low down as the 32d parallel of north latitude. I am aware, sir, it will be said that this exclusion of the people of the southern States below the line of 36° 30' in California is the act of the inhabitants of the Territory, and not the act of the Congress of the United States; and therefore that it is no violation of the Missouri compromise on the part of the latter.

Sir, I shall make no argument to prove that California in the whole extent, as well the territory

embraced within the limits of the new States that without them, is yet, in the political relation to this Government of "a territory"—a territory within the meaning of the terms of the Constitution—the "property" of the United States; and the act of such of the inhabitants on the coast assembled in convention and formed a constitution has not the slightest effect to change that relation of California throughout the whole extent of territory when that constitution was formed; it is a territory yet; nor has that constitution least validity whatever, and never can have, unless made good against this Government by force of arms, or ratified by an act of Congress; and it is assented to, or I should rather say asserted the law of the question by the Senator from Kentucky himself, [Mr. CLAY.]

Whenever, then, the constitution of California is ratified by Congress, the clause prohibiting very will become law by the act of Congress, by it alone. We have had the same question presented in the same form in regard to the Territory of Oregon. The inhabitants of the Territory, in absence of any government provided by Congress, established a system of government for themselves, and by one of their ordinances excluded domestic slavery from the territory. In the bill as reported for the organization of a territorial government, a provision was inserted ratifying and confirming the laws enacted by the provisional government amongst which was that prohibiting slavery, the controversy then was upon such ratification all agreeing that to confirm such a law was equivalent to a direct enactment by Congress.

Now, sir, as to this right in the inhabitants of a portion of the Territory of California. They have no authority whatever, none in law and as a matter of justice, to assemble themselves upon the property of the Government—the common property of the States—and to pass a law which shall interfere from that Territory the citizens of one half of the States of this Union unless they leave their valuable property behind them, and that very property which of all other would be of most value to them in the Territory.

Mr. President, we have fallen upon strange times, indeed, since this question of the extension or interdiction of slavery was first brought up for discussion in the Congress of the United States. Sir, what have we seen as the act of the Executive of the United States in reference to these matters? In prescribing the duties of the President the constitution enjoins, amongst other things, "he shall take care that the laws be faithfully executed." The Territory of California is the property of the United States, acquired first by treaty, and the title subsequently confirmed by solemn treaty, and for the consideration of millions of dollars, paid and payable by the United States to Mexico. Now, one would suppose if there was any duty in the President, as the great head of the Government, more cogent than another, it was that which would require him to see to the safety of the public property, and that the laws concerning it were "faithfully executed."

Yet, monstrous as it may appear, the fact notwithstanding remains, that, under the evil counsels of those around him, amongst the first acts of his administration was, through the military commander in the Territory of California, to invite the inhabitants found there to assemble in convention.

and pass laws and ordinances in contravention of the authority of the United States. Laws and ordinances by which the inhabitants were to defeat and annul the title of the United States, acquired under the treaty with Mexico, which the constitution declares shall be "the supreme law of the land," and to wrest from the Government of the United States this large and valuable domain, the property of the United States.

I found this charge, sir, on the terms of the proclamation of Brevet Brig. Gen. Riley, addressed to the people of California, dated at Monterey on the 3d of June, 1849, acting, as he says, "in accordance with instructions of the Secretary of War."

By this proclamation an election was ordered of delegates to a convention, the number of such delegates prescribed, election districts assigned, the day of election and the qualification of the voters ascertained and fixed, and the day ordered for the convention to assemble in discharge of the duties to be assumed by them—acts of highest sovereignty, exercised by a military commander over the property of the United States, without a shadow of authority in law, and with a view to facilitate the inhabitants of the Territory in depriving the people of the United States of their property.

How many people so assembled, and what portion of the inhabitants were actually represented, we shall presently learn, remarking only at present that the proclamation issued on the 3d of June, for elections to be held on the first day of August following, less than sixty days' notice, to a people dispersed over a territory larger than that of the original thirteen States, divided into bands of gold diggers, explorers, and hunters, without organization, roads, villages, or newspapers—off the sea-coast, and separated by mountains, lakes, rivers, and deserts.

But these initiative measures to abandon to the first comers the property of the United States, strange as they are, are by no means the most strange in this extraordinary Executive plunge. After a constitution was adopted by those who had assembled under the proclamation, and ratified as was said by the inhabitants, the fact was formally made known to the military commander, General Riley, and he as formally and gravely issued a second proclamation, dated on the 20th December, 1849, with a military order of the same date, by which he on that day "relinquished the administration of civil affairs in California to the Executive of the Government organized under the provisions of the constitution," &c. And thus, without warrant of law, in violation of the plain letter of the Constitution, and of the not less plain Executive trust, was the dominion of the United States over a large and valuable Territory, the property of all the States, quietly handed over to the first occupants who went upon it, and who were invited and stimulated to take it; and, as if in sport with so grave an occasion, the General sends the matter by agreeing to defray all the expenses of the convention out of the public money in his hands. [See his letter to "the Hon. C. T. Rottts, chairman," &c., dated at Monterey, September 13, 1849.]

Strange, passing strange, Mr. President, that such flagrant usurpations of power, such wanton, had almost said wicked, disregard of plainest constitutional duty should pass without rebuke,

and even without notice—anything, everything, constitution and all, is made secondary to the great end of staving off the discussion, and the necessity of settling, by the constituted authorities of the land, the rights of the people of the southern States as co-proprietors in the Territories.

The key to all this is, with becoming simplicity, given in the annual message of the President, to get rid of the disturbing question of slavery, by getting rid of the public property with which it was connected. The summary disposition it was to make of the rights of the people of the southern States weighed as nothing with the President or his counsellors. It was the grave specific of the French empiric, which certainly carried off the disease by carrying off the patient.

Sir, an honorable Senator from Florida [Mr. YULEE] brought before the Senate, on a former day, an occasion somewhat similar, that arose, I think, in the case of Arkansas, when the Legislative Council of that territory petitioned the Governor to issue his proclamation, calling upon the people to organize a State government, in the days, I believe, of President Jackson. The Governor, who seems to have had a proper idea of the position in which he stood to the territory, submitted the question to the President, and he again to the Attorney General, and the latter advised the President that the Governor was bound to administer the laws of the country, and that he not only could not originate, but that he could give no countenance to any revolutionary movement of that kind. I apprehend, Mr. President, that there are none who will doubt that the true Federal relation of a territory to this Government is that of property, and, as is always the case of property held by a sovereign, that it carries with it not only the right to the soil, except where private right intervenes, but also dominion over the people inhabiting that soil.

It was under such guidance that the convention assembled in California, and framed the constitution which has been submitted to us by the President—under the proclamation of a military commander, without the sanction of the Congress of the United States, but in derogation of its authority. And this constitution, with the exact boundaries it prescribes for the new States, we are called on to sanction as a matter of political necessity. Sir, I have looked somewhat into the report of the debates in convention in California, which were placed some days since upon our tables, and I found, as other gentlemen will find, if they will look through this report, that the polar star which guided their deliberations on all the great questions to be determined was, so to adjust them as would best insure a speedy admission of their State into the Union. On the question of boundary, of domestic servitude, and of the exclusion of the African race altogether from California, everything seems to have been affected, and to some extent controlled, by a belief in the necessity of propitiating the majority in Congress on the subject of African slavery. One of the earliest propositions in the convention in relation to the boundaries was, that they should prescribe as the boundaries of the new State the existing boundaries of California: those boundaries by which the territory was ceded by Mexico—boundaries which would embrace an area nearly equal to that of the thirteen original States; and the gentleman who moved this propo-

sition gave as his reason for it, that, if they undertook to cut and carve for themselves, so as to prescribe more convenient boundaries for the State of California, the effect would be to produce dissension at Washington, and difficulty and delay in gaining admission into the Union. That gentleman said, in substance: If we take the whole of California, it will never be considered by anybody that this immense area of hundreds of thousands of square miles should remain as one State, but that it would necessarily be divided as soon as the number of the population required it, and formed into different States; and his proposition was, that the territory, when the proper time arrived, should be divided into six States, each one of them having a front upon the Pacific ocean. Such was the proposition made by this gentleman, who was, I apprehend, one of the most intelligent and enlightened members of that convention. Those views, however, were overruled as unjust to the twenty or thirty thousand people residing in the great basin of Utah and the Salt Lake, a thousand miles off, who were ignorant even that such a convention was in session, and on the ground that to take the whole territory for the new State would be more likely to create dissension at Washington than if arbitrary boundaries were assumed. The result was, that the idea of embracing the entire territory was abandoned, and, feeling at liberty to choose for themselves, the convention eventually agreed to take such boundaries as would be of most seeming advantage to the coast population, which was done by a line embracing the entire Pacific front, from the boundaries of Oregon to those of Mexico, an extent of ten degrees of latitude, and extending eastward to embrace the mountain range, called the Sierra Nevada. Thus the coast population in California, by a mere dash of the pen, exclude from the commerce of the Pacific ocean the immense and boundless territory which lies behind them, with the millions of population which will swarm there at a future day. And this is done, although Nature herself would seem to intend otherwise, by leaving an open way to the ocean, between the parallels of 34° and 35° , where the chains of mountain subside into the plain.

I will not detain the Senate by reading from the debates in Convention. But I propose to quote from them on the points alluded to above, as well as on others hereafter to be noticed, and append it to my remarks when I print.* I allude to these

debates here for the purpose of showing that the people of California, so far as I comprehend the wishes, do not attach to the proposed contraction of her boundary that great interest which is connected with it here at Washington. I do not find anything in these debates which leads me to believe that, yielding to the desire of the people of California to become immediately one of the States of the Union, they will take it much to heart, if they contract their boundaries as I have proposed. But there is another striking fact shown by the debate in that convention, and it is this: that every representative in the convention present from the territory south of the line of $36^{\circ} 30'$ was against the formation of a State government at all; that the people who resided south of that line were in favor of a territorial government, and against a State government; and it is further stated in the debate by a gentleman who took part in it when this question was before the convention, that the votes of those who were representatives from the territory south of that line ($36^{\circ} 30'$) were given to me against the formation of a State government. I should say, then, viewing this question, not as one of political expediency, but as one of justice and propriety, that the Senate of the United States, prescribing a proper southern boundary for the State of California, should restrict that boundary to the parallel of $36^{\circ} 30'$. To do this would enable the people living east of the great chain of mountains to have access to the Pacific coast, and would be conformable to the wish of the large and stable population residing south of that line.

Mr. President, it has been asked in the Senate more than once, with what view we would contract the boundaries of California? It has been asked of gentlemen from the southern States whether, if they did contract this boundary and open a way so that they could carry their slaves there, it would ever be done? The Senator from Massachusetts, [Mr. WEBSTER,] some time ago, declared that slavery would never go there, that this Wilmot proviso was written on every rock and in every plain; that nature had ordained that slavery could not exist there, and that it would be idle to attempt to contravene the ordinances of nature. Sir, any gentleman who will inform himself of the statements made and acted on in the California Convention, as shown by the debate, will find that if the people of the southern States had been at liberty to take their slaves there, and

*APPENDIX, containing quotations from the report of the debates in the California Convention.

ON THE BOUNDARIES OF CALIFORNIA.

Mr. GWIN said, (page 196 of the report of the debates:)

"If I understand the gentleman from Sonoma, [Mr. SEMPLE,] he stated this morning that if we establish no boundaries, Congress will be forced to admit us with the boundaries we now have. I cannot admit the argument. I do not look upon it, that if we were to send our constitution to Congress, they are forced to give us all of the boundary that we have described, or that they are forced to give it to us if we do not describe it. I think gentlemen are laboring under a great mistake in regard to the power of Congress on this subject, when they assume that, if we pronounce a certain line as the boundary of California, it shall be the boundary, notwithstanding any objection of Congress. I have not the remotest idea that the Congress of the United States would give us this great extent of boundary if it was expected that it should remain one State. And when gentlemen say that they never will give up one inch of the Pacific coast, they say what they cannot carry out. So far as I am concerned, I should like to see six States fronting on the Pacific, in California. I want the additional power

in the Congress of the United States of twelve Senators instead of four; for it is notorious, sir, that the State of Delaware, smaller than our smallest district, has as much power in the Senate as the great State of New York. It is not the passage of a bill through the House of Representatives that makes a law; that bill has to go through the Senate, and in that body the State of Delaware has as much power as the State of New York. And the past history of our country, sir, develops the fact that we will have State governments here—probably as many as on the Atlantic side—as we accumulate States we accumulate strength; our institutions become more powerful to do good, and not to do evil. I have no doubt the time will come when we will have twenty States this side of the Rocky mountains, want the power, sir, and the population. When the population comes, they will require that this State shall be divided."

As evidence that the inhabitants residing south of the parallel of $36^{\circ} 30'$ preferred a territorial form of Government, the same gentleman [Mr. GWIN] held the following language, page 195:

"Sir, are we not here forcing a State government upon a portion of the people of California whose delegates have their recorded votes stated the fact that their constituent

what I assume to be their constitutional right, they would have been taken into the territory by hundreds of thousands, and that at this day the larger portion numerically would have been the population of slaves held by the southern slaveholders. Sir, what could be a more valuable use of that labor than in working those mines? Everybody can understand that for himself. But it is proved by the fact, that after the convention of California had determined upon the exclusion of slaves from the Territory, a proposition was made that the constitution should exclude the African race in every form, bond or free; and the reason given for it was thus summed up. You have excluded slavery. Now, unless you exclude

are unanimously against a State government and in favor of a territorial organization? Do you not expect and require that they shall sustain this Government and become a part of it? If not, let us require their delegates to retire from this Convention, apply to Congress for a territorial government, and exclude them from our State boundary. Gentlemen affect to believe that in taking in a large extent of territory not represented here, and from which no opposition to our action has become known to us, we are doing a great act of injustice to those people; when, at the same moment, we have here before us the direct protest against a State government of a portion of the inhabitants of this territory who are represented. But do we stop—do we refrain from committing this act of injustice? No, sir; we go on and include them; we never think of excluding them. They bear the expense of a State government, while they prefer a territorial government; but, rather than submit to separate organization, or run the risk of getting no government at all, they waive their objection and act with us."

And again, page 197:

"The proviso of the gentleman from Monterey [Mr. HALLOCK] was added at his suggestion. I prefer sending my proposition as I offered it. We should not mutilate our constitution on this subject. We send it to a great Power. Gentlemen deny the right of Congress to interfere with the subject of our limits. If Congress has not the power to designate what we shall be, why do we send our constitution there? I was opposed to any other boundary but that of California as recognized by the Governments of the United States and Mexico, for another reason, and I consider it a very important one, that if we leave a portion of territory out, we would necessarily open a question which we here should not interfere with. We all know what 36° 30' is. It is the great bone of contention. North of that there is no contest. South of it there is a contest. If gentlemen will look where this line strikes the Pacific, they will see that not a solitary vote was cast by a delegate in this Convention south of that line, except those cast against a State government. The representatives here from that region are unanimous in their votes against the establishment of a State government. If we include the territory these delegates represent on the coast, why exclude the barren waste beyond, where no white man lives? We take away the substance and leave the shadow. Let us take the whole territory or stop at that line. If we stop at that line, we mutilate the Convention by excluding the members south of it."

Page 184. Mr. Semple, the President of the Convention, said:

"I feel under some obligation to repeat a conversation which has a direct bearing upon this matter. There is a distinguished member of Congress, who holds his seat from one of the States of the Union, now in California. With a desire to obtain all the information possible in relation to the state of things on the other side of the mountains, I asked him what was the desire of the people in Congress; I observed to him that it was not the desire of the people of California to take a larger boundary than the Sierra Nevada; and that we would prefer not embracing within our limits this desert waste to the east. His reply was: 'For God's sake leave us no territory to legislate upon in Congress.' He went on to state then that the great object in our formation of a State government was to avoid further legislation. There would be no question as to our admission by adopting this course; and that all subjects of minor importance could afterwards be settled. I think it my duty to impart this information to the Convention. The conversation took place between Mr. Thomas Butler King and myself."

Value of slaves in California.

Some idea may be formed of what the value of slaves

the African race altogether, the consequence will be that the Territory of California will be inundated by free negroes. Because, so valuable would be their services to their masters, that the owners of slaves would take them there by thousands and thousands, upon contract that they should serve them one or two years and then be manumitted. It was said that by adopting this course each slave would be worth from two to five thousand dollars a year to his master. These, then, are facts which I present in answer to gentlemen who contend that there is no room for African slavery there. Now, who can say that the same reasoning does not apply to the southern part of California? It is said that gold has not been discovered there, and

would be in California, if permitted to be taken there, from what follows, page 137:

"Mr. McCarver then moved the following section:

"39. The Legislature shall, at its first session, pass such laws as will effectually prohibit free persons of color from immigrating to and settling in this State, and to effectually prevent the owners of slaves from bringing them into this State for the purpose of setting them free."

"Mr. McCarver. This is the article which I offered to the House some time ago. I withdrew it at the suggestion of several gentlemen—who thought it would be more appropriate in another part of the constitution.

"I have no doubt, sir, that every member of this House is aware of the dangerous position in which this country is placed, owing to the inducements existing here for slaveholders to bring their slaves to California and set them free. I am myself acquainted with a number of individuals who, I am informed, are now preparing to bring their slaves here upon indentures and set them free. I hold it to be a correct doctrine, sir, that every State has a right to protect itself against an evil so enormous as this."

Again, the same gentleman, page 38:

"Let us look at the inducements, and see whether these fears are without foundation; let us see what is the probable value of an able-bodied negro man in the southern States—they hire there at from sixty to one hundred dollars a year. Suppose you pay \$700 to get a slave here, and set him free on condition that he shall serve you for one year. He produces, according to the ordinary rates in the mines, from two to six thousand dollars. There are many of our southern friends who would be glad to set their negroes free and bring them here, if they produced one half that amount. When the terms of the contract have expired what would these slaves do? They would become a burden on the community. And I can assure you, sir, thousands will be introduced into this country before long if you do not insert a positive prohibition against them in your constitution—an immense and overwhelming population of negroes, who have never been freemen; who have never been accustomed to provide for themselves."

And in like terms, page 180, Mr. McDougal:

"Gentlemen have risen on this floor and stated that they had received letters from the South; and that they knew of many others who want to bring their slaves here, and work them for a short period in the mines and then emancipate them. If this constitution is thrown back upon us for reconsideration, it leaves them the opportunity of bringing their slaves here. It is what they desire to do; to create some strongly objectionable feature in the constitution, in order that they may bring their slaves here and work them three months. They will even then get more than they can get for them in the States. I look upon that as the result if we send our constitution to Congress with a boundary so objectionable as this."

I add a single quotation more, to give some idea of the extent to which the people in California were represented in this Convention. At page 193 Mr. Botts said:

"Yes, sir, I am told there are thirty thousand freemen in this extent of country east of the Sierra Nevada, which you propose to include in your limits. Are they in the district of Sonoma, or Sacramento, or Monterey?—thirty thousand freemen unrepresented. Do you know, sir, by what vote of my constituents I sit upon this floor? I will tell you. I received ninety-six votes—I, who am modestly requested to legislate for thirty thousand people I never saw, am sent here by ninety-six votes. My colleague, it is true, who makes this proposition, received some twenty or thirty more; and as for the remainder of my colleagues, I believe they are even worse off than I am."

that it never will be. Those who have said so may be right, or they may be wrong. Gentlemen say that the climate, the soil, and the desert wastes which are to be found there afford no inducements for slave labor. In that, too, they may be right, or they may be wrong; but I say that, under the Constitution, we have a legal right to have the door left open, and to have it kept open, in order that we may enjoy it, so long as it remains a territory, in any way we may think most expedient.

But, apart from any question of constitutional right or obligation toward the southern States, a glance at the map will show that every motive of public policy, and just equality in the Territory requires that the immense reach of country lying eastward of the Sierra Nevada, or the proposed eastern boundary of the new State, should not be excluded from the commerce and trade of the Pacific. We are told that it is idle to attempt to provide access for that country to the Pacific coast, because they are separated from it by vast and impassable mountains. I again refer them to the map, which shows that the mountains subside south of the parallel of thirty-five degrees; and I refer, also, to the declarations before adverted to, of one of the chief members of the convention, who indicated as the ultimate policy of the country the erection of six States in the Territory, each of which should front and bind on the Pacific ocean. It is an advantage, of value inestimable to future States, that they should have a share in the great commerce of the Pacific, and it is our clear duty to provide it for them, by taking care that the entire coast is not preoccupied and engrossed by those who happen to have been the first comers. Look, sir, at the great valleys of the Colorado and the Gila, both to a great extent unexplored; but the latter giving evidence, by the color of its waters and the traditions of the Indians, that it embraces a highly valuable and fertile country. Nature has opened a way for the access of the inhabitants of these great valleys to the ocean; and we are called upon to cut it off for no reason under heaven that I can conceive, unless it be expressly to exclude our southern people from the whole territory.

And now, sir, as to the adjustment of the difficulties around us, I beg to say, that the leading and controlling objection to the bill under consideration, so far as the Territory of California is concerned, is this extension of her southern boundary. I think I have shown that every consideration of national policy, and of justice to the immense country behind the new State, requires that she be restrained from engrossing the entire border of the Pacific. I think I have shown from the language of her public men in Convention, that there is no urgent reason affecting her condition why this extended boundary should be allowed; and I have shown further, that the people to be affected by it south of the line indicated are solicitous and anxious to be excepted from the limits of the new State. But I insist, more than all, that it violates the terms of the compromise of 1820. It opens anew, and in aspect of prophetic warning to the South, the dangerous purposes of those who claim the right to limit and restrain the extension of the institution of slavery; and it will compel the States where this institution exists to rely on their own resources and strength to arrest the exercise of the power, whatever consequences may ensue.

But, sir, to the contrary of all this, determine to abide by the settlement of this controverted question, as made on the admission of Missouri, and the horizon clears off at once. Great as we view the concession made by that settlement on the part of the South, it has been done, and we are willing yet to abide by it. So determine, and we admit California at once, and upon the proclamation of the President, if such form be most acceptable, upon information satisfactory to him that the inhabitants within the prescribed limits have in the proper forms contracted their southern boundary as indicated, and have limited their representation at present to one member. And we will do this in the earnest desire to restore tranquillity to the country, and harmony and efficiency to the public councils, although to do so we must overlook the gross usurpations of the Executive, connected with the subject, along with all the irregularities attendant upon the constitution of the convention; and if, in all this, there can be seen no spirit of conciliation, then I fear that nothing will satisfy the majority but terms that import ruin to the South.

I submit this proposition, sir, to the Senator of Kentucky, [Mr. CLAY,] who has asked the Senator of Louisiana, [Mr. SOULE,] what it was the South wanted, and what we would take. I offer as the mode of adjustment the line of the Missouri compromise, that upon which the country has reposed for the last thirty years: adopted in 1820 when Missouri was admitted, and reaffirmed in 1845, on the annexation of Texas. I believe myself, honestly believe, that the South most unfortunately erred in assenting, even by acquiescence, to the establishment of this line of partition. We are reaping now all the bitter fruits of that surrender. It was done, however, in a spirit of concession, and for the sake of peace. It was called then a "compromise"—meaning, I presume, a joint agreement of the two great sections of the country to divide a territory in dispute, rather than bring to extremity this issue made on a question of constitutional power. Compromise is a dangerous resort to those in a minority, as we have sadly experienced. Far better for a minority to try the right when first questioned than to evade it for the sake of repose. And where do we stand now? Precisely where we stood in 1820, except that the majority has increased, and the minority diminished by the operations of well-known causes in the tide of population. The South cannot retrieve the step then taken without an open rupture, and this we will avoid, if the North will allow it. Sir, the proposition of the southern States to stand on the Missouri compromise line throws the whole responsibility of the future upon the North, and the country will so understand it. Odious as this evil has been, and to none more so than to him who now addresses you, I will abide by it as a sacrifice to the public peace. But not one hair's breadth will I, as a representative of Virginia, ever yield below that line, as a matter of right in the North. I qualify it, sir, as a matter of *right*, because it is said that in the face of the country, in California a more convenient natural boundary could be found perhaps a few minutes south of the compromise line. If this be so, let it be adopted. I stickle only for the right, which can be protected by the language of the act.

And now, Mr. President, let gentlemen on the

ther side assign their reasons *why* the southern boundary of California should not be contracted as proposed. It will give to the new State a border of five degrees of latitude on the Pacific, reserving about four for the southern Territory; and will leave an open way to the ocean for future states which may be erected.

So much, sir, in regard to that part of the bill which provides for the admission of California.

The next proposition in the bill is, that Texas, or a grant of money, shall cede to the United States all of her territory lying north and west of a line to be drawn from a point near the 32nd parallel of north latitude to the 34th. The intent, as alleged, is, thereby to settle the controverted question of boundary between Texas and so much of New Mexico as has been ceded to the United States by treaty with Mexico.

I shall not now go into this question of boundary as one of right between Texas and the United States. My business is to deal with it in the bill, as it is proposed to operate on the question of compromise or adjustment of the slavery question. In his view the first effect of it certainly is, to take off so much of the territory as belongs to Texas, now subject to the institution of slavery, and to make it the property of the United States. At present slaveholders with their property can go here, and hold it under the jurisdiction of Texas: cede it to the United States, and who is credulous enough to believe that the institution will be allowed there one day after the title is passed?

The next effect of it is to withdraw the ceded territory from the operation of the compact of annexation. That compact is in the following words:

"New States of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution; and such States as may be formed out of that portion of said territory lying south of 36° 30' north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire; and in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery, or involuntary servitude, except for crimes, shall be prohibited."

That is to say, new States that are formed out of the *territory of Texas* south of that line shall be admitted into the Union "with or without slavery," &c. But if the cession be made, the territory ceded is no longer the "territory of Texas," but it becomes the territory of the United States, and is in all respects on the footing of any other territory of the United States. When, therefore, new States are formed out of the ceded territory, they will be formed not out of "territory of Texas," but out of "territory" of the United States. In other words, the obligation of the compact is binding on the United States in respect to territory of the State of Texas, but the obligation ceases when the territory ceases to be the territory of Texas. But whether this be the true legal exposition or not of the effect of that compact, the experience of the country gives us sufficient warning what the actual construction will be, should the question ever arise.

The last effect that I shall notice is, to violate the faith pledged by the compact with Texas, as to the condition of new States that might be formed out of her territory south of 36° 30'. The southern States admitted Texas into the Union on the

faith that the question of slavery or not, south of that line, should be left to the people inhabiting the country. The bill will take it from them, and leave it to the Congress of the United States.

As things stand, it is fully conceded that the terms of the compact are *mandatory*, and require new States to be admitted south of that line whenever Texas assents, and there is sufficient population—the question of slavery or not to be determined by the inhabitants of a territory where slavery prevails. Pass this bill, and the mandate gives way to the discretion of a majority in Congress, whilst in the mean time the territory passes under the sole jurisdiction of Congress in all respects whatsoever. And what, sir, is the amount of territory to be thus surrendered? Why, a fraction less than one hundred and twenty-five thousand square miles—a territory abundantly large for two medium sized States. Let it be done, and it requires no prophecy to foretell the result. Two non-slaveholding States will take their position north and west of the State of Texas.

The actual effect of this bill, then, will be—

1st. In the territory of California to prohibit the institution of slavery on the whole Pacific border, and in latitude down to the 32^d parallel.

2d. To take from Texas 125,000 square miles of territory now claimed as hers, and subject to the institution of slavery, and to place it, as to the continuance of this institution, at the discretion of Congress—thus removing the barrier of the Missouri compromise, incorporated into the compact with her.

And as an inducement to the southern States to vote this bill, what is offered in return? Why, a proposition simply, in forming governments for the remaining territories acquired from Mexico, to refrain from enacting in them the Wilmot proviso; this Wilmot proviso, held by all the southern States as so direct an invasion of their rights under the Constitution, as to justify resistance on their part "to the last extremity and at every hazard."

Sir, I do not wish to speak harshly, but it is difficult to speak with forbearance.

To *escape* (I think that is the true word) for the present, and for the present only, from a law thus characterized by the southern States, they are to assent to the prohibition of slavery in one of the territories four degrees and a half below the Missouri line, and to release 125,000 square miles of slave territory in one of the southern States to the discretion of a majority constituted of Representatives from the non-slaveholding States.

To state the proposition, sir, is to insure its repudiation by the South.

Sir, if we were to do this, which Heaven forbid ever should be done by southern votes, it would be but a temporary respite. Notwithstanding the voice of peace which we have occasionally heard, this Wilmot proviso is "not dead, but sleepeth." We have had warning enough to arouse even the dullest ear, in the speech of an eminent and influential Representative from the State of Massachusetts, delivered in the other wing of the Capitol, on a proposition to lay the "Wilmot" on the table during the present session. His language was this:

"But it remains to be seen whether the great principles of the ordinance of '87 have lost any portion of their vitality; whether they have not as strong and living a hold on the hearts of our northern and western men as on that of

the honorable member himself: and whether, on the proper occasion, if a real necessity or reasonable demand for their assertion and maintenance should arise, they would not be asserted, and be maintained by as large a majority in this body as they ever have been heretofore. I believe they would be."

Who can doubt that the "real necessity or reasonable demand for their assertion and maintenance," oracularly hinted by the speaker, was the existence or non-existence of any previous law in the territory abolishing slavery, and thus dispensing with a new enactment. No, sir, the proposition to refrain *now* from passing this proviso, and which we are to purchase at so dear a price, is no abandonment of the principle on the part of the majority. It is but to postpone its exercise, because as they believe there exists in these territories no "real necessity or reasonable demand for its assertion," and this is all.

I have thus, Mr. President, endeavored to lay before the Senate the objections I entertain to the bill under consideration as it has been reported by the select committee; nor is there any amendment which can remove them, unless it were one to change the principle upon which it is founded. I have in doing this indicated the line of the Missouri compromise as the only ground upon which, as I believe, the question can be settled in such way as to destroy agitation and restore harmony to the different sections of the Union. Run that line out from the State of Texas to the Pacific ocean, and I feel the strongest assurance that the entire South will acquiesce in the decision. Certainly it will have whatever weight will be carried by any recommendation of mine. And, sir, that we may have a distinct proposition before the Senate as a substitute, believed to carry the consent of the southern States, I here propose it to the counsels of the country.

Mr. CLAY. Mr. President, I have risen merely to make an inquiry of the honorable Senator from Virginia, with a view to the clear comprehension of what are the terms upon which he thinks an adjustment of these questions could be made. I understand him to propose the extension of the line 36° 30' from Texas, where it now terminates by the resolution of annexation, to the Pacific ocean. Did I understand him as requiring that there shall be any legislation on the part of Congress, to recognize the right of the slaveholding States to introduce their slaves south of that line, by the abrogation of any local law, if there be any local law existing there which forbids the introduction of slavery? Is he content, in other words, with the line 36° 30' extended to the Pacific ocean, with nothing being said on the subject of slavery either on the right or left of that line—north or south of it? I should be glad of an answer to these questions, for the purpose of understanding the matter clearly.

Mr. MASON. I will answer the question of the Senator from Kentucky with great pleasure. So far as my own opinions are involved, or those of any whom I might guide—if any such there be—I declare most distinctly that the adoption of the line of 36° 30' as the southern boundary of California would content me, without any legislation on the part of Congress in reference to the subject of slavery. In other words, that if the southern boundary of California were contracted to that line, I should be content to organize a territorial government for the territory south of it,

in the usual form, without any provision, *pro con*, upon the subject of slavery.

Mr. CLAY. And so through to New Mexico.

Mr. MASON. Clearly. My suggestion this: The compromise bill contains three propositions. The first is for the admission of California with her present boundaries; the second is for cession of territory from Texas, prescribing her boundaries; and, third, for the organization of governments in the remaining territory. Now, it pleases the Senator to strike from the bill altogether that part which relates to the cession of territory from Texas, then I should be content the southern boundary of California was contracted to the compromise line of 36° 30', and the organization of a territorial government in the usual manner.

Mr. CLAY. Will the honorable Senator from New Hampshire excuse me for a moment? This is a very important subject—a very important matter—and it is extremely desirable that the country should distinctly understand what is proposed. This question, you will recollect, sir, the commencement of this session, on the first occasion on which I addressed you at length, discussed, and on that occasion I stated that I could not think of offering to the South the line 36° 30', because without an express recognition of the right to carry slaves south of that line, it was offering to the South a mere ideal line, without carrying along with it any practical benefits whatever. I understand, however, now, that the Senator from Virginia is willing to take the line 36° 30' to the Pacific, leaving the local law and the Constitution of the United States to operate on either side of that line, without any express declaration or recognition of the right to carry slaves south of that line, or a prohibition of slavery north of that line. That I understand to be the view of the Senator?

Mr. MASON. Undoubtedly.

Mr. CLAY. Assuming that to be what would satisfy him, the further question which I should like to be answered is, whether all the Senator from the South will be satisfied with that line, as silent as to the legislation south of that line?

Mr. MASON, (in his seat.) I speak only for myself.

Mr. CLAY. The Senator says it is confined to himself. He must at once perceive that any change or variation in the existing proposition without a knowledge of some practical result would be, perhaps, losing time unnecessarily. But I should like to know whether every southern Senator will be satisfied with the line running 36° 30' to the Pacific, nothing being said about the right to carry slavery south of that line.

Mr. MASON. Mr. President I have stated to the Senator very frankly the position which I am prepared to assume in this matter. I have told him that I have done so as expressing my own opinions only, and I have given my reasons for that opinion in the argument I have had the honor to submit to the Senate. He asks me now whether he is to understand that all the other Senators from the southern States concur in the opinions which I express. I will state to him, sir, that he will get, I apprehend, a very speedy expression of that opinion if he will indicate to the Senators on this side of the Chamber whether he will be for it himself.

Mr. CLAY. Mr. President this is making a contract between two individuals. I have no authority to answer for anybody. I confess the opposition this morning struck me with great surprise—with agreeable surprise. Although, sir, I would not say that I would go into California to disturb her limits, yet, I think that if the honorable Senator would get out another compromise, I might be very much disposed to go along with him. That is to say, I would consent to run the line 36° 30', without any recognition of the right to carry slaves south of that line, leaving Texas and the Constitution of the United States to operate there. If you can make anything out of that, contrary to my convictions, I shall be very much disposed myself—speaking now only for myself—to take the compromise line as the southern boundary of California. That is to say, to run it through Utah and New Mexico.

Mr. MASON, (in his seat.) And no further? Mr. CLAY. Certainly; not with regard to California.

Mr. MASON. Mr. President, my remarks were more particularly addressed to the Senator from Kentucky, who introduced this bill as a scheme of compromise and adjustment. I meant instinctively to declare to him, and to the Senate, that, so far as my opinions went, I should, with a desire to adjust this controversy, agree to the running of the Missouri compromise line through Texas to the Pacific. What advantages or disadvantages would result to the parties who might agree to this adjustment would be for them respectively to determine. I apprehend that we should gain not a little by cutting off from California that portion of her Pacific border south of 36° 30', in which slavery is now inhibited by her constitution. I apprehend that we will gain something in relation to the State of Texas, if, by the adjustment, the territory which lies north of the parallel of 36° 30' becomes the territory of the United States, instead of so much of the territory as lies between 32° and her northern boundary. At any rate, I only threw out the suggestion as a measure of compromise. But I found no response to it from the Senator from Kentucky. Although that Senator expressed a very guarded opinion that he might probably agree to running the compromise line through Utah and New Mexico, he was silent as to its being run through Texas, and he dissented to its extension through the so-called new State of California to the Pacific. But, sir, a measure of adjustment is one thing, and strictly measuring our respective rights is another. If it shall be the determination of the Senator from Kentucky (for he is the one who introduced this bill) to require us to measure our rights on this bill, I can only say, and I say it with no little regret, that we shall be

at arms-lengths. But, if he will give his concurrence to this plan of dividing California by the line of 36° 30', I apprehend that all difficulties will be removed.

Mr. CLAY. Mr. President, I suppose that in all negotiations, whether diplomatic or legislative, or of any other character, the negotiators ought to produce credentials of authority. Now, I understand the Senator from Virginia, to be acting upon his own hook, if I may use a common expression. He is not able to answer for a solitary Senator from the South. And does he expect that I should give an answer to a proposition coming from a solitary individual, perhaps not seconded, not concurred in by another southern Senator?

Sir, I will not say what I would do. But I will say, that if there was an entire concurrence of all the southern Senators in the proposition made by the Senator from Virginia, I should hesitate long before I should pronounce an opinion upon it; I should give it grave and serious deliberation. No southern Senator has yet announced his concurrence in the proposition. The only signal of concurrence or non-concurrence on the other side of the house was a most emphatic nod of disapprobation from a worthy friend of mine, now in my eye. Does the honorable Senator expect to get up solitary and alone, without the concurrence of another Senator from the South, and make a proposition to me, and call upon me to assent to it? But, in the total absence of his credentials of authority, I will tell the Senator how he may accomplish his object. The bill is in progress, and open to amendment. Let the Senator make his proposition to extend the line 36° 30' to the Pacific, and call for the yeas and nays on it. We can then have a vote on the question; and we can then see how many southern Senators will concur in his proposition.

Mr. MASON. Mr. President, I do not understand that the Senator from Kentucky has exhibited any power or credentials to negotiate on his part; but I do understand that he takes great care not to commit himself upon the question. Nay, the honorable Senator goes so far only as to say that if any mode could be devised by which the concurrent opinion of all the southern Senators could be ascertained, he would certainly take it into very grave consideration. I apprehend from all this, that this proposition will result in nothing. I can assure the honorable Senator that I mean to offer no such proposition. I stand in a minority, and, as the Senator from Louisiana said the other day, it does not become a minority to offer terms to those who have the power to make them. I shall offer no proposition. I have merely stated what would meet my concurrence.

